

AMENDED IN ASSEMBLY FEBRUARY 22, 2010

CALIFORNIA LEGISLATURE—2009—10 EIGHTH EXTRAORDINARY SESSION

**SENATE BILL**

**No. 5**

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**Introduced by Committee on Budget and Fiscal Review**

January 20, 2010

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~~An act relating to the Budget Act of 2009.~~ *An act to amend Section 22954 and 22955 of the Education Code, to add Section 16324 to, and to add and repeal Sections 16325, 16325.5, and 16326 of, the Government Code, and to amend Section 2103.1 of the Streets and Highways Code, relating to state finance, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2009.~~ *State cash resources.*

*(1) Existing law requires the Controller to notify the Governor and the Pooled Money Investment Board when the General Fund is or will be exhausted. The Governor is then authorized to order the Controller to direct the transfer of all or any part of the moneys not needed in other funds or accounts, with specified exceptions, to the General Fund from those funds or accounts, as determined by the Pooled Money Investment Board.*

*This bill would require that specified General Fund payments to be made in March 2010 would be paid no sooner than April 15, 2010, but no later than May 1, 2010, which would be carried out by the Controller. The bill would require the Controller, Treasurer, and Director of Finance, prior to the payment deferrals, to jointly review and compare the actual General Fund receipts and disbursements with the receipt and disbursement projections contained in the cashflow statements*

*associated with the proposed 2010–11 Governor’s Budget. The bill would require the payments that would otherwise be deferred to be made if sufficient cash is available, as specified, and would require the Department of Finance to notify the Joint Legislative Budget Committee of the payments. If payments are deferred, beginning April 1, 2010, the bill would require the Controller, Treasurer, and Director of Finance to review daily the actual cash receipts and disbursements in comparison to the receipt and disbursement projections associated with the proposed 2010–11 Governor’s Budget. The bill would require the deferred payments to be made as soon as feasible, in a specified order, if sufficient cash is available to make all payments through April 15, 2010, including the payments otherwise subject to deferral, and maintain a prudent cash reserve.*

*This bill would enact, until September 1, 2011, a cash management plan to authorize the Controller, Treasurer, and Director of Finance to defer General Fund payments for up to 60 or 90 days, as specified, beginning July 2010, for specific departments and programs subject to specific conditions.*

*(2) Existing law requires specified transfers of General Fund revenue to the Supplemental Benefit Maintenance Account in the Teachers’ Retirement Fund, a continuously appropriated fund, on November 1 and April 1 of each fiscal year.*

*This bill would revise those transfer dates to October 15 and April 15, respectively, of each fiscal year, and would specify that each payment be 50% of the annual appropriation.*

*(3) Existing law requires state excise fuel tax revenues to be deposited in certain accounts and to be allocated, in part, for various purposes, including the cost of collection and authorized refunds. Existing law requires the balance of these funds remaining after authorized deductions to be transferred to, and deposited monthly in, the Highway Users Tax Account in the Transportation Tax Fund. Existing law provides for annual and monthly apportionment by the Controller of specified revenues in the Highway Users Tax Account to cities, counties, and cities and counties for the transportation purposes authorized by Article XIX of the California Constitution. Existing law requires transfers of those revenues from the Highway Users Tax Account to counties or cities that would otherwise be made during certain months of 2009 and 2010 to instead be deferred and paid on or within 2 working days of April 28, 2010, with a specified exception.*

*The bill would extend the deferral of apportionments from the Highway Users Tax Account in the Transportation Tax Fund to cities, counties, and cities and counties from July 2010 to March 2011, inclusive, and limit the amount of those deferrals to no more than \$50,000,000 per month.*

*(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.*

*This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.*

*(3) This bill would declare that it is to take effect immediately as an urgency statute.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.*

~~*The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.*~~

~~*This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.*~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 22954 of the Education Code is amended*
- 2     *to read:*
- 3     22954. (a) Notwithstanding Section 13340 of the Government
- 4     Code, a continuous appropriation is hereby annually made from
- 5     the General Fund to the Controller, pursuant to this section, for
- 6     transfer to the Supplemental Benefit Maintenance Account in the
- 7     Teachers' Retirement Fund.
- 8     (b) Except as reduced pursuant to subdivision (c), the total
- 9     amount of the appropriation for each year shall be equal to 2.5
- 10    percent of the total of the creditable compensation of the fiscal

year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5.

(c) Beginning with the 2008–09 fiscal year, the appropriation in subdivision (b) shall be reduced in accordance with the following schedule:

2008–09.....	\$66,386,000
2009–10.....	\$70,000,000
2010–11.....	\$71,000,000
2011–12 and each fiscal year thereafter.....	\$72,000,000

(d) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a) shall be made on ~~November 1~~ *October 15* and ~~April 15~~ of each fiscal year *with each payment to be 50 percent of the annual appropriation.*

(e) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(f) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

*SEC. 2. Section 22955 of the Education Code is amended to read:*

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported

1 annually to the Director of Finance, the Chairperson of the Joint  
2 Legislative Budget Committee, and the Legislative Analyst  
3 pursuant to Section 22955.5, and shall be divided into four equal  
4 ~~quarterly~~ payments. *The payments shall be made on, or the*  
5 *following business day after, July 1, October 1, December 15, and*  
6 *April 15 of each fiscal year.*

7 (b) Notwithstanding Section 13340 of the Government Code,  
8 commencing October 1, 2003, a continuous appropriation, in  
9 addition to the appropriation made by subdivision (a), is hereby  
10 annually made from the General Fund to the Controller for transfer  
11 to the Teachers' Retirement Fund. The total amount of the  
12 appropriation for each year shall be equal to 0.524 percent of the  
13 total of the creditable compensation of the fiscal year ending in  
14 the immediately preceding calendar year upon which members'  
15 contributions are based, as reported annually to the Director of  
16 Finance, the Chairperson of the Joint Legislative Budget  
17 Committee, and the Legislative Analyst pursuant to Section  
18 22955.5, and shall be divided into four equal quarterly payments.  
19 The percentage shall be adjusted to reflect the contribution required  
20 to fund the normal cost deficit or the unfunded obligation as  
21 determined by the board based upon a recommendation from its  
22 actuary. If a rate increase is required, the adjustment may be for  
23 no more than 0.25 percent per year and in no case may the transfer  
24 made pursuant to this subdivision exceed 1.505 percent of the total  
25 of the creditable compensation of the fiscal year ending in the  
26 immediately preceding calendar year upon which members'  
27 contributions are based. At any time when there is neither an  
28 unfunded obligation nor a normal cost deficit, the percentage shall  
29 be reduced to zero. The funds transferred pursuant to this  
30 subdivision shall first be applied to eliminating on or before June  
31 30, 2027, the unfunded actuarial liability of the fund identified in  
32 the actuarial valuation as of June 30, 1997.

33 (c) For the purposes of this section, the term "normal cost  
34 deficit" means the difference between the normal cost rate as  
35 determined in the actuarial valuation required by Section 22311  
36 and the total of the member contribution rate required under Section  
37 22901 and the employer contribution rate required under Section  
38 22950, and shall exclude (1) the portion for unused sick leave  
39 service credit granted pursuant to Section 22717, and (2) the cost  
40 of benefit increases that occur after July 1, 1990. The contribution

1 rates prescribed in Section 22901 and Section 22950 on July 1,  
2 1990, shall be utilized to make the calculations. The normal cost  
3 deficit shall then be multiplied by the total of the creditable  
4 compensation upon which member contributions under this part  
5 are based to determine the dollar amount of the normal cost deficit  
6 for the year.

7 (d) Pursuant to Section 22001 and case law, members are  
8 entitled to a financially sound retirement system. It is the intent of  
9 the Legislature that this section shall provide the retirement fund  
10 stable and full funding over the long term.

11 (e) This section continues in effect but in a somewhat different  
12 form, fully performs, and does not in any way unreasonably impair,  
13 the contractual obligations determined by the court in California  
14 Teachers' Association v. Cory, 155 Cal.App.3d 494.

15 (f) Subdivision (b) shall not be construed to be applicable to  
16 any unfunded liability resulting from any benefit increase or change  
17 in contribution rate under this part that occurs after July 1, 1990.

18 (g) The provisions of this section shall be construed and  
19 implemented to be in conformity with the judicial intent expressed  
20 by the court in California Teachers' Association v. Cory, 155  
21 Cal.App.3d 494.

22 (h) This section shall become operative on July 1, 2003, if the  
23 revenue limit cost-of-living adjustment computed by the  
24 Superintendent of Public Instruction for the 2001–02 fiscal year  
25 is equal to or greater than 3.5 percent. Otherwise this section shall  
26 become operative on July 1, 2004.

27 *SEC. 3. Section 16324 is added to the Government Code, to*  
28 *read:*

29 *16324. (a) Notwithstanding any other provision of law, in*  
30 *order to effectively manage state cash resources, the General Fund*  
31 *payments to be made in March 2010 for the programs or*  
32 *departments listed in subdivision (b) shall be paid no sooner than*  
33 *April 15, 2010, but not later than May 1, 2010, which shall be*  
34 *carried out by the Controller, subject to subdivision (c). Nothing*  
35 *in this section shall be construed to authorize the deferral of state*  
36 *payroll, debt service, or rental payments that support lease-revenue*  
37 *bonds.*

38 *(b) The departments and programs subject to subdivision (a)*  
39 *are as follows:*

40 *(1) Trial court operations (nonpayroll).*

1     (2) *California State University.*

2     (3) *California Community Colleges (excluding twelve million*  
3 *dollars (\$12,000,000)).*

4     (4) *University of California.*

5     (5) *State Teachers' Retirement Board, pursuant to Sections*  
6 *22954 and 22955 of the Education Code.*

7     (c) *Prior to each of the payment deferrals identified in*  
8 *subdivision (b), the Controller, Treasurer, and Director of Finance*  
9 *shall jointly review and compare the actual General Fund receipts*  
10 *and disbursements with the receipt and disbursement projections*  
11 *contained in the cashflow statements associated with the proposed*  
12 *2010–11 Governor's Budget. If the Controller, Treasurer, and*  
13 *Director of Finance determine sufficient cash is available to make*  
14 *all scheduled payments through April 15, 2010, including the*  
15 *payments otherwise subject to deferral identified in subdivision*  
16 *(b), and maintain a prudent cash reserve, the Controller shall*  
17 *make the payments as originally scheduled. The Department of*  
18 *Finance shall notify the Joint Legislative Budget Committee within*  
19 *10 days of making this determination.*

20     (d) *In the event payments are deferred pursuant to subdivision*  
21 *(a), beginning April 1, 2010, the Controller, Treasurer, and*  
22 *Director of Finance shall review daily the actual cash receipts*  
23 *and disbursements in comparison to the receipt and disbursement*  
24 *projections associated with the proposed 2010–11 Governor's*  
25 *Budget. If the Controller, Treasurer, and Director of Finance*  
26 *determine sufficient cash is available to make payments through*  
27 *April 15, 2010, including the payments otherwise subject to*  
28 *deferral identified in subdivision (b), and maintain a prudent cash*  
29 *reserve, the Controller shall make the deferred payments, in whole*  
30 *or in part, as soon as feasible, in the order listed in subdivision*  
31 *(b). The Department of Finance shall notify the Joint Legislative*  
32 *Budget Committee within 10 days of making this determination*  
33 *and identify the date upon which the payments were made.*

34     SEC. 4. *Section 16325 is added to the Government Code, to*  
35 *read:*

36     16325. (a) *An effective cash management plan is needed for*  
37 *the 2010–11 fiscal year to address General Fund cash shortages*  
38 *that otherwise may occur during the fiscal year. The goals of the*  
39 *cash management plan described in this section are to accomplish*  
40 *the following:*

1     (1) Increase the state's ability to address cash shortages in a  
2     quick and responsible manner.

3     (2) Address rating agencies' and bond markets' concerns  
4     regarding the state's ability to react effectively to cashflow  
5     pressures while providing a higher level of certainty to  
6     bondholders.

7     (3) Preserve external borrowing capacity and affordability for  
8     the state's infrastructure programs.

9     (4) Provide a higher level of predictability to affected programs  
10    and entities where deferrals or delays are required.

11    (b) Nothing in this section or in Sections 16325.5 and 16326  
12    shall be construed to affect in any way the timing or amount of  
13    payments of state payroll or to affect in any way any judicial  
14    proceeding related to the timing or amount of state employee  
15    compensation. Nothing in this section shall be construed to  
16    authorize the delay of debt service payments, rental payments that  
17    support lease-revenue bonds, reimbursements to local governments  
18    for certain reductions in ad valorem property taxes, as required  
19    by Section 25.5 of Article XIII of the California Constitution, or  
20    required payments for borrowings secured by these repayment  
21    obligations, payments required under a Funds Transfer  
22    Cooperative Agreement that are pledged to pay debt service on  
23    state payment acceleration notes that were issued to finance toll  
24    bridge seismic retrofit and replacement projects, payments  
25    appropriated in any year to pay a court judgment pursuant to the  
26    settlement agreement in *Paterno v. State* (2003) 113 Cal.App.4th  
27    998, or payments to small vendors as defined in the California  
28    Prompt Payment Act (Chapter 4.5 (commencing with Section 927)  
29    of Part 3 of Division 3.6 of Title 1). Nothing in this section shall  
30    be construed to affect the applicability of interest, late payment  
31    penalty, and similar payment requirements under the California  
32    Prompt Payment Act or Section 926.19 when payments to persons  
33    or entities specified in those laws are delayed.

34    (c) Deferrals authorized in the cash management plan described  
35    in this section and in Sections 16325.5 and 16326 are in addition  
36    to any payment delays, payment deferrals, or payment schedules  
37    specified in other laws. Deferrals authorized in the cash  
38    management plan described in this section and in Sections 16325.5  
39    and 16326 do not replace, remove, or alter any previously  
40    implemented payment delays or payment deferrals.



1 (d) Activities by the Controller, Treasurer, and Director of  
2 Finance to implement and carry out the cash management plan  
3 described in this section and Sections 16325.5 and 16326 are  
4 hereby exempted from the provisions of the Administrative  
5 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
6 Part 1 of Division 3).

7 (e) This section shall become inoperative on September 1, 2011,  
8 and, as of January 1, 2012, is repealed, unless a later enacted  
9 statute, that becomes operative on or before January 1, 2012,  
10 deletes or extends the dates on which it becomes inoperative and  
11 is repealed.

12 SEC. 5. Section 16325.5 is added to the Government Code, to  
13 read:

14 16325.5. (a) Notwithstanding any other provision of law, and  
15 to the extent not prohibited by federal law or the California  
16 Constitution, in order to effectively manage state cash resources,  
17 the General Fund payments projected to be made for the programs  
18 or departments listed in subdivision (b) shall be deferred, effective  
19 beginning in the months of July 2010, October 2010, and March  
20 2011, in full for no more than 60, 90, and 60 days, respectively,  
21 unless otherwise specified in Section 16326, and Section 2103.1  
22 of the Streets and Highways Code. Nothing in this section shall  
23 be construed to authorize the deferral of state payroll, debt service,  
24 or rental payments that support lease-revenue bonds.

25 (b) The departments and programs subject to subdivision (a)  
26 are as follows:

27 (1) Kindergarten to grade 12, inclusive, apportionments.

28 (2) Supplementary Security Income/State Supplementary  
29 Payments made by the State Department of Social Services.

30 (3) Local government social services and transportation  
31 payments.

32 (4) Trial court operations (nonpayroll).

33 (c) Prior to implementing each of the payment deferrals  
34 identified in subdivision (b) and other provisions of the act adding  
35 this section, the Controller, Treasurer, and Director of Finance  
36 shall jointly review and compare the actual General Fund receipts  
37 and disbursements with the receipts and disbursements contained  
38 in the most current published cashflow projections. If the  
39 Controller, Treasurer, and Director of Finance determine sufficient  
40 cash is available to make all scheduled payments through the 60-

1 or 90-day period or other period specified in law, including the  
2 payments otherwise subject to deferral identified in subdivision  
3 (b), and maintain a prudent cash reserve, the Controller shall  
4 make the deferred payment as originally scheduled or within the  
5 time provided for by law. In making the determination that cash  
6 is sufficient to make the payments, the Controller, Treasurer, and  
7 Director of Finance shall also consider costs for state government,  
8 the scope of any identified cash shortage, timing, achievability,  
9 legislative direction, and the impact and hardship imposed on  
10 potentially affected programs, entities, and related public services.  
11 The Department of Finance shall notify the Joint Legislative Budget  
12 Committee of this action within 10 days of making this  
13 determination.

14 (d) In the event payments are deferred pursuant to subdivision  
15 (a) or other provisions of the act adding this section, beginning  
16 July 1, 2010, the Controller, Treasurer, and Director of Finance  
17 shall review on a monthly basis, or as necessary, the actual  
18 General Fund cash receipts and disbursements in comparison to  
19 the receipt and disbursement projections associated with the  
20 Governor's most current cashflow statements. If the Controller,  
21 Treasurer, and Director of Finance determine sufficient cash is  
22 available to make payments otherwise deferred for the 60- or  
23 90-day period or other period specified in law, including the  
24 payments otherwise subject to deferral identified in subdivision  
25 (b) or other provisions of the act adding this section, and maintain  
26 a prudent cash reserve, the Controller shall make the deferred  
27 payments, in whole or in part, as soon as feasible unless otherwise  
28 provided in Section 16326, or Section 2103.1 of the Streets and  
29 Highways Code. In making the determination that cash is sufficient  
30 to make the payments, in whole or in part, the Controller,  
31 Treasurer, and Director of Finance shall also consider costs for  
32 state government, the scope of any identified cash shortage, timing,  
33 achievability, legislative direction, and the impact and hardship  
34 imposed on potentially affected programs, entities, and related  
35 public services. The Department of Finance shall notify the Joint  
36 Legislative Budget Committee within 10 days of this determination  
37 and identify the date upon which the payments were made.

38 (e) Upon concurrence of the Controller, Treasurer, and Director  
39 of Finance, payment deferrals authorized pursuant to subdivision  
40 (a) or other provisions of the act adding this section may be moved

1 *forward to the prior month or delayed to the subsequent month.*  
2 *Any changes may be authorized no sooner than 30 days after*  
3 *notification in writing by the Department of Finance to the Joint*  
4 *Legislative Budget Committee, or not sooner than whatever lesser*  
5 *time the Chairperson of the Joint Legislative Budget Committee,*  
6 *or his or her designee, may determine.*

7 *(f) This section shall become inoperative on September 1, 2011,*  
8 *and, as of January 1, 2012, is repealed, unless a later enacted*  
9 *statute, that becomes operative on or before January 1, 2012,*  
10 *deletes or extends the dates on which it becomes inoperative and*  
11 *is repealed.*

12 *SEC. 6. Section 16326 is added to the Government Code, to*  
13 *read:*

14 *16326. (a) Notwithstanding any other provision of law, except*  
15 *as otherwise specified in Sections 16325 and 16325.5, cash*  
16 *deferrals specified in Sections 16324, 16325, and 16325.5, and*  
17 *Section 2103.1 of the Streets and Highways Code, as amended by*  
18 *the act adding this section, shall be limited, as follows:*

19 *(1) Payments to public schools in which kindergarten or grades*  
20 *1 to 12, inclusive, are taught shall be deferred as specified in*  
21 *Section 16325.5 with the total outstanding amount of the deferrals*  
22 *under this action limited to two billion five hundred million dollars*  
23 *(\$2,500,000,000) at any given point in time, and a maximum of*  
24 *three deferrals during the fiscal year.*

25 *(A) In order for a county office of education to receive scheduled*  
26 *apportionments in the event payments are deferred, as described*  
27 *in this paragraph, the Superintendent of Public Instruction shall*  
28 *determine, and notify the Director of Finance on or before May*  
29 *17, 2010, that the deferral of warrants pursuant to this paragraph*  
30 *will result in the county office of education being unable to meet*  
31 *its expenditure obligations for the time period during which*  
32 *warrants are deferred. The criteria, as applicable, set forth in*  
33 *statute and regulations to qualify a school district for an emergency*  
34 *apportionment shall be used to make the determination specified*  
35 *in this section.*

36 *(B) In order for a charter school to receive scheduled*  
37 *apportionments in the event payments are deferred, as described*  
38 *in this paragraph, the chartering authority shall determine, in*  
39 *consultation with the county superintendent of schools, and notify*  
40 *the Superintendent of Public Instruction and the Director of*

1 *Finance on or before May 17, 2010, that the deferral of warrants*  
2 *pursuant to this paragraph will result in the charter school being*  
3 *unable to meet its expenditure obligations for the time period*  
4 *during which warrants are deferred. The criteria, as applicable,*  
5 *set forth in statute and regulations to qualify a school district for*  
6 *an emergency apportionment shall be used to make the*  
7 *determination specified in this section.*

8 *(C) In order for a local education agency to receive scheduled*  
9 *apportionments in the event payments are deferred, as described*  
10 *in this paragraph, the county superintendent of schools shall certify*  
11 *to the Superintendent of Public Instruction and to the Director of*  
12 *Finance on or before May 17, 2010, that the deferral of warrants*  
13 *pursuant to this paragraph will result in qualifying the local*  
14 *educational agency for an emergency apportionment pursuant to*  
15 *Article 2 (commencing with Section 41320) of Chapter 3 of Part*  
16 *24 of Division 3 of Title 2 of the Education Code.*

17 *(2) Of the amount appropriated from the General Fund to the*  
18 *University of California for the 2010–11 fiscal year, payments*  
19 *made by the state to the University of California shall not exceed*  
20 *one-twelfth of the annual appropriation for each month from July*  
21 *2010 through April 2011. Any remaining appropriation balance*  
22 *may be paid to the University of California thereafter with no*  
23 *limitations.*

24 *(3) Notwithstanding Sections 84320, 84321, and 84321.5 of the*  
25 *Education Code and any other law that governs the regulations*  
26 *adopted by the Chancellor of the California Community Colleges*  
27 *to disburse funds, two hundred million dollars (\$200,000,000) and*  
28 *one hundred million dollars (\$100,000,000) from the payment of*  
29 *apportionments to districts pursuant to Sections 84320, 84321,*  
30 *and 84321.5 of the Education Code for July 2010 and March 2011,*  
31 *respectively, shall be deferred to October 2010 and May 2011,*  
32 *respectively. Notwithstanding this paragraph and subject to the*  
33 *approval of the Director of Finance, the Controller shall issue*  
34 *warrants pursuant to Sections 84320, 84321, and 84321.5 of the*  
35 *Education Code that include the full amount of the apportionment*  
36 *payments for the months of July 2010 or March 2011, or both, for*  
37 *a community college for which the Chancellor of the California*  
38 *Community Colleges determines, in consultation with the Director*  
39 *of Finance, on or before May 17, 2010, that the deferral of*

warrants pursuant to this paragraph will present an imminent threat to the fiscal integrity and security of the community college.

(4) Of the amount appropriated from the General Fund to the California State University for the 2010–11 fiscal year, payments made by the state to the California State University shall not exceed one-twelfth of the annual appropriation for each month from July 2010 through April 2011. Any remaining appropriation balance may be paid to the California State University thereafter with no limitations.

(5) The 2010–11 cash management plan described in Sections 16325 and 16325.5 may include deferrals in state payments for specific programs that are disbursed to cities, counties, and other public entities not addressed elsewhere in this section. Deferral of payments by the state to cities, counties, and other public entities not addressed elsewhere in this section shall be as follows:

(A) Payments shall be deferred as specified in Section 16325.5 per the specific program.

(B) Payments shall be limited to one billion dollars (\$1,000,000,000) for all programs that affect cities, counties, and other public entities not addressed elsewhere in this section at any given point in time.

(C) A maximum of three deferrals per specific program may be made during the fiscal year.

(D) The state shall not defer any payments to a county with a population less than 50,000, or a city within a county with a population less than 50,000.

(E) Payments to local governments may be deferred for social services programs, transportation programs, and Mental Health Services Act (Proposition 63 of 2004) programs.

(6) In addition to implementing the payment schedule described in paragraph (4), the Director of Finance may at any time during the 2010–11 fiscal year defer payment of General Fund moneys, in a cumulative amount not to exceed two hundred fifty million dollars (\$250,000,000), appropriated to the California State University. Payment of the amount deferred shall be made in the final week of April 2011.

(b) Limits on payment deferrals specified in subparagraphs (A) and (C) of paragraph (5) of subdivision (a) shall not apply to payments authorized in paragraph (3) of subdivision (a) of Section 2103.1 of the Streets and Highways Code to cities and counties.

1 *Limits on payment deferrals specified in subparagraphs (A) and*  
2 *(C) of paragraph (5) of subdivision (a) shall not apply to payments*  
3 *to the Mental Health Services Act (Proposition 63) programs.*

4 *(c) Upon the Controller's receipt of a letter from the executive*  
5 *officer of the Administrative Office of the Courts, or any other*  
6 *executive officer representing cities or counties, the state may*  
7 *defer payments to the entity or entities that the executive officer*  
8 *represents as specified in the letter even if the specified amounts*  
9 *exceed the deferrals authorized in this section or elsewhere in law.*

10 *(d) This section shall become inoperative on September 1, 2011,*  
11 *and, as of January 1, 2012, is repealed, unless a later enacted*  
12 *statute, that becomes operative on or before January 1, 2012,*  
13 *deletes or extends the dates on which it becomes inoperative and*  
14 *is repealed.*

15 *SEC. 7. Section 2103.1 of the Streets and Highways Code is*  
16 *amended to read:*

17 2103.1. (a) Notwithstanding any other law, the apportionment  
18 of revenues deposited to the credit of the Highway Users Tax  
19 Account in the Transportation Tax Fund that are otherwise required  
20 to be made, pursuant to this chapter, to cities, counties, and cities  
21 and counties for the following months shall be deferred and shall  
22 be made as follows:

23 (1) For the months of July and August of 2009, the  
24 apportionments shall be paid with the payment of August revenues  
25 in September 2009. This deferral shall not apply to a county with  
26 a population of less than 40,000.

27 (2) For the months of November and December of 2009, and  
28 January, February, and March of 2010, the apportionments shall  
29 be paid on or within two business days of April 28, 2010. This  
30 deferral shall not apply to a county with a population of less than  
31 40,000.

32 (3) *For the months of July, August, September, October,*  
33 *November, and December 2010, and January, February, and*  
34 *March 2011, no more than fifty million dollars (\$50,000,000) for*  
35 *each month shall be deferred. The balance of unpaid*  
36 *apportionments for these months shall be paid on or within two*  
37 *business days of April 28, 2011. The state shall not defer any*  
38 *payments to a county with a population less than 50,000, or a city*  
39 *within a county with a population less than 50,000.*

(b) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city, county, or city and county may make use of any cash balance in its account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code) for local street and road maintenance and operations, during the period of the deferrals of apportionment payments pursuant to subdivision (a). The use of this cash shall not be considered as an expenditure of bond act funds if the cash is replaced when the payments in subdivision (a) are made.

(c) Notwithstanding any other provision of law, for the purpose of meeting the cash obligations associated with ongoing street and road costs, a city, county, or city and county may make use of any cash balance available to a special fund of the city, county, or city and county during the period of deferral of apportionment payments pursuant to subdivision (a).

(d) This section shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and that an expenditure is required to meet all the requirements of its funding source.

*SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

*SEC. 9. Nothing in this act shall be construed to in any way interfere with, contravene, or limit the power, authority, or duty of the Controller, Treasurer, or Director of Finance.*

*SEC. 10. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.*

*SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

1     *Due to the projected insufficient cash balance in late March or*  
2     *early April of this year, it is necessary to defer certain payments*  
3     *so that all other General Fund payments can be made.*

4     ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
5     ~~changes relating to the Budget Act of 2009.~~

6     ~~SEC. 2. This act addresses the fiscal emergency declared by~~  
7     ~~the Governor by proclamation on January 8, 2010, pursuant to~~  
8     ~~subdivision (f) of Section 10 of Article IV of the California~~  
9     ~~Constitution.~~

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